

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) **Atwater, Antonio**
Application **09/843,289**
Confirmation **7918**
Filed **24 April 2001**
Application Title **Method and Apparatus For Receiving Full-Motion Digital Video
Multi-Casts, Interactive Data and Interactive Voice Via A DSL
Circuit**
Art Unit **2616**
Latest Examiner **Nguyen, Phuongchau Ba**

Mail Stop Petitions

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW OFFICE ACTION FINALITY

Applicant respectfully petitions the Commissioner to withdraw the finality of the Office Action dated 31 July 2008 since the present Office Action improperly groups claims in common rejections of those claims.

By rejecting claims 25, 46, 58, 75, and 81 as a group, the Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d) (a “plurality of claims should **never** be grouped together in a common rejection, unless the rejection is **equally applicable** to all claims in the group.”).

For example, unlike the other claims in the rejected group, claim 46 states “the response managed via IP multicast capable TCP/IP software”. The common rejection of claims 25, 46, 58, 75, and 81 as a group makes no mention of “the response managed via IP multicast capable

TCP/IP software”, and fails to point out where, in any of the references, that claimed subject matter is disclosed. In view of the failure of the Office Action to fully satisfy the requirements of MPEP 707.07(d), the next Office Action should not be final.

As another example, unlike the other claims in the rejected group, claim 58 states “the response managed via IP multicast capable TCP/IP software”. The common rejection of claims 25, 46, 58, 75, and 81 as a group makes no mention of “the response managed via IP multicast capable TCP/IP software”, and fails to point out where, in any of the references, that claimed subject matter is disclosed. In view of the failure of the Office Action to fully satisfy the requirements of MPEP 707.07(d), the next Office Action should not be final.

As still another example, unlike the other claims in the rejected group, claim 75 states “the response managed via IP multicast capable TCP/IP software”. The common rejection of claims 25, 46, 58, 75, and 81 as a group makes no mention of “the response managed via IP multicast capable TCP/IP software”, and fails to point out where, in any of the references, that claimed subject matter is disclosed. In view of the failure of the Office Action to fully satisfy the requirements of MPEP 707.07(d), the next Office Action should not be final.

Further, unlike the other claims in the rejected group, claim 81 states “the response managed via IP multicast capable TCP/IP software”. The common rejection of claims 25, 46, 58, 75, and 81 as a group makes no mention of “the response managed via IP multicast capable TCP/IP software”, and fails to point out where, in any of the references, that claimed subject matter is disclosed.

By rejecting claims 32, 39-40, 52-53, 64, and 94-95 as a group, the Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d) (a “plurality of claims should **never** be grouped together in a common rejection, unless the rejection is **equally applicable** to all claims in the group.”).

Unlike the other claims in the rejected group, claim 94 states “wherein the subscriber is identified using a media access control address”. The common rejection of claims 32, 39-40, 52-53, 64, and 94-95 as a group makes no mention of “wherein the subscriber is identified using a media access control address”, and fails to point out where, in any of the references, that claimed

subject matter is disclosed. In view of the failure of the Office Action to fully satisfy the requirements of MPEP 707.07(d), the next Office Action should not be final.

In addition, unlike the other claims in the rejected group, claim 95 states "wherein the subscriber is identified using an IP address". The common rejection of claims 32, 39-40, 52-53, 64, and 94-95 as a group makes no mention of "wherein the subscriber is identified using an IP address", and fails to point out where, in any of the references, that claimed subject matter is disclosed. In view of the failure of the Office Action to fully satisfy the requirements of MPEP 707.07(d), the next Office Action should not be final.

For at least these reasons, the finality of the 31 July 2008 Office Action is premature. Thus, Applicant respectfully requests that the finality of the 31 July 2008 Office Action be withdrawn.

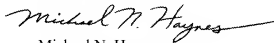
Submitted herewith please find the Petition fee under 37 C.F.R. 1.17 (h), which Applicant respectfully requests be refunded.

CONCLUSION

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to Deposit Account No. 50-2504. The Examiner is invited to contact the undersigned at 434-972-9988 to discuss any matter regarding this application.

Respectfully submitted,

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